

ZONING ORDINANCE

OF THE CITY OF

FREDERICK, MD.

Passed and Approved August 5, 1929.

MEMBERS OF ZONING COMMISSION

(Appointed 1929)

JACOB ROHRBACK, *Chairman*, for term of 4 years

C. THOMAS SUMMERS, *Secretary*, 4 years

WILLIAM T. DELAPLAINE, 3 years

DAVID O. GRIFFIN, 2 years

JAMES H. GAMBRILL, JR., 1 year

MAYOR AND BOARD OF ALDERMEN

LLOYD C. CULLER, *Mayor*

G. WILLIAM SHIPLEY, *President*

JOHN S. RENN

AUGUST T. BRUST

G. HUNTER BOWERS

ELMER F. MUNSHOWER

ELMER ST. C. MAXWELL, *City Engineer*

CITY OF FREDERICK, MARYLAND

INDEX

TO

ZONING ORDINANCE

	Section	Page
Accessory Uses	7	12, 13
Area Districts	15	16, 17
Area Districts Regulations	16	17
A Area Districts	17	17, 18
(a) Percentage of lots covered.....	17	17
(b) Rear yard required.....	17	18
(c) Number of families per acre.....	17	18
Business Use Districts.....	5	10, 11
B Area Districts	18	18
(a) Percentage of lots covered.....	18	18
(b) Rear yard required.....	18	18
(c) Number of families per acre.....	18	18
(d) Side yard requirement.....	18	18
Board of Zoning Appeals.....	24	22
(a) Determine minor irregularities.....	24	22
(b) Determine front yard requirement where not established	24	22
Board of Zoning Appeals.....	27	24, 25, 26
(a) Board established	27	24
(b) Appointment of employees	27	24
(c) Adopt rules to carry out ordinance.....	27	25
(d) Appeals to Board of Zoning Appeals.....	27	25
(e) An appeal stays all proceedings.....	27	25
(f) Time for hearing of the appeal.....	27	25
(g) Powers of Board of Zoning Appeals.....	27	25
(1) To hear and decide appeals.....	27	26
(2) To hear and decide special exceptions...	27	26
(3) To authorize upon appeal.....	27	26
(h) Exercising of Powers.....	27	26
(i) Reverse decision of City Engineer.....	27	26
(j) Board authorized to make special exceptions...	27	26
C Area Districts	19	18, 19
(a) Percentage of lot covered.....	19	18
(b) Rear yard requirements.....	19	18
(c) Number of families per acre.....	19	19
(d) Side yard requirements.....	19	19
Classification of Use Districts and Uses.....	3	9

	Section	Page
Construction, Extension and Alteration of Building.....	9	13
(a) No building shall be constructed	9	13
(b) No building shall be extended	9	13
(c) No building shall be altered	9	13
Court Review	28	26, 27
(a) Any person may appeal to Court.....	28	27
(b) Presentation of Petition to Court.....	28	27
(c) Return of original papers.....	28	27
(d) Testimony to court.....	28	27
(e) Proceeding under this section have preference	28	27
Definitions	33	29, 30
(a) Words	33	29
(b) Lot	33	29
(c) Street	33	29
(d) Alley	33	29
(e) Height of Building.....	33	29
(f) Building	33	30
(g) Width of Street.....	33	30
(h) Corner Lot	33	30
(i) Interior Lot	33	30
(j) Depth of Lot.....	33	30
(k) Yard of Open Space.....	33	30
(l) Front yard	33	30
(m) Rear yard	33	30
(n) Side yard	33	30
(o) Dwelling	33	30
(p) Now	33	30
(q) Hereafter	33	30
Enforcement	26	23, 24
(a) Permits and plans required.....	26	23
(b) Application for permit shall show information	26	23
(c) Action against	26	24
Front yards	22	20, 21
Front yard table.....	23	21, 22
General Heights District Exceptions.....	14	16
(a) Belfries, Chimneys, etc.....	14	16
(b) Water Towers	14	16
(c) Bulkheads, Cooling Towers, etc.....	14	16
(d) Towers	14	16
General Area, Regulations and Exceptions.....	20	19, 20
(a) Limits of Building Area.....	20	19
(b) Computing depth of rear yard.....	20	19
(c) Computing width of side yards.....	20	19
(d) Fireproof outside stairway.....	20	19
(e) Ordinary window sills, etc.....	20	19

	Section	Page
(f) Enclosed or unenclosed porches.....	20	19
(g) An unenclosed porch may project.....	20	19
(h) Single family may occupy.....	20	20
(i) Garage for not more than one motor vehicle 200 sq. ft. of area.....	20	20
(j) Garages and accessory buildings.....	20	20
(k) No dwelling shall hereafter be erected.....	20	20
(l) No. of families occupying dwelling.....	20	20
(m) Percentage of lot now occupied.....	20	20
General Ordinance	1	8
Height Districts	12	14, 15
Height Districts Regulations.....	13	15, 16
(a) In 90 ft. height district.....	13	15
(b) In 45 ft. height district.....	13	16
Industrial Use Districts.....	4	9, 10
Interpretation of Maps and Map Designations.....	25	22, 23
(a) A Use District Name.....	25	22
(b) Precise location of district boundary line is intended	25	22
(c) Precise location of boundary line is shown.....	25	22
(d) Where boundary line is shown and location not fixed	25	22
(e) Depth of a front yard required for any build- ing	25	23
Non-Conforming Uses	8	13
Ordinance Becomes Law (Aug. 5, 1929).....	36	31
Passage of Ordinance	35	30, 31
Permits Good for Six Months.....	30	28
Penalties for Violation.....	31	28
Provision for Amendment.....	32	28, 29
Residential Use Districts.....	6	11, 12
Restoration of Buildings.....	29	27, 28
Saving Clauses	34	30
Special Area Regulations and Exceptions.....	21	20
(a) Garages and accessory buildings.....	21	20
Use Districts	2	8
Use Districts Special Exceptions.....	10	13, 14
(a) An Extension of a use of building.....	10	13
(b) An Extension of a non-conforming use.....	10	14
(c) For a period not exceeding two years.....	10	14
(d) An apartment or tenanted garage.....	10	14
(e) A space to be used as a garage (without repair facilities)	10	14
(f) Vest authority in Board of Zoning Appeals.....	10	14
Uses Limited as to Location.....	11	14

AN ORDINANCE

to promote the health, security, general welfare and morals of the City of Frederick, dividing the city into use, height, and area districts, regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, in accordance with a comprehensive plan; providing for the administration and enforcement of such regulations and restrictions; creating a Board of Zoning Appeals; providing for appeals; providing penalties for violations of the provisions of this ordinance; and providing for amendments to this ordinance; in accordance with Chapter 705 of the Acts of 1927 of the General Assembly of Maryland.

Section 1. Be it ordained by The Mayor and Aldermen of Frederick, That for the purpose of promoting the health, security, general welfare and morals of the community, the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes are regulated and restricted and such regulations and restrictions are made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and for the said purposes, the City of Frederick is divided into use, height and area districts.

Section 2. Use Districts. For the purpose set forth in Section 1, and considering the design, size and/or location of—

- (a) sewers;
- (b) water mains and pipes for fire extinguishment, domestic consumption and manufacturing;
- (c) fire houses and their equipment;
- (d) police stations with the number of patrolmen and the extent of their posts;
- (e) streets, alleys, bridges and paving;
- (f) schools, parks, playgrounds and other public facilities and requirements;

and considering, among other things,

- (g) traffic problems;
- (h) transportation requirements and facilities;
- (i) hazards from fire and disease;
- (j) the height and area districts and regulations established by this ordinance,

as affected by the uses of land and buildings in each of the use districts hereinafter mentioned, the use of land and buildings is hereby regulated and restricted, and the City of Frederick is divided into three classes of use districts, namely:

- (1) Industrial Use Districts;
- (2) Business Use Districts;
- (3) Residential Use Districts,

as shown on the district map which accompanies this ordinance and which is hereby declared to be part of this ordinance. The use districts designated on said map are hereby established. The use district map designations, lines, figures, letters and symbols shown on said map are hereby declared to be part thereof. All buildings and all uses of land and buildings shall be permitted in any use district, except such uses of land and buildings, and such buildings as are arranged, intended or designed to be used for such uses, as are specifically excluded from such use district.

Section 3. Classification of Use Districts and Uses. Uses which are excluded from business use districts, but which are not excluded from industrial use districts, and those uses for which an ordinance is required under the provisions of Section 4, shall be known as industrial uses. Industrial uses and industrial use districts shall be the lowest classification. Uses which are excluded from residential use districts, but which are not excluded from business use districts, shall be known as business uses. Business uses and business use districts shall be higher in classification than industrial uses and industrial use districts. Uses which are not excluded from residential use districts shall be known as residential uses. Residential uses and residential use districts shall be the highest classification.

Section 4. Industrial Use Districts. In an industrial use district, no use of land or buildings shall be excluded. The following:

1. Abattoir
2. Acetylene gas manufacture
3. Ammonia manufacture
4. Arsenal
5. Blast furnace
6. Chlorine, or hydrochloric, nitric, picric, sulphuric, or sulphurous acid manufacture
7. Coke ovens
8. Distillation of coal, wood or bones
9. Distillation of spirits of turpentine or varnish

10. Exterminator or insect poison manufacture
11. Fertilizer manufacture
12. Fireworks or explosive manufacture or storage warehouse
13. Glue factory
14. Gunpowder manufacture or storage
15. Hair factory
16. Incineration or reduction of garbage, offal, or dead animals, or refuse other than garbage or refuse accumulated and disposed of, on the premises, without offensive odor
17. Refining of petroleum or any of its products
18. Sash weight foundry
19. Sewage disposal plant
20. Slaughter house refuse or animal refuse or rancid fats or refuse dead animals, cooking, boiling or rendering
21. Slaughtering of animals
22. Tetra-ethyl lead precipitate or liquid manufacture
23. Any use which is a nuisance per se,

are limited as to location in industrial use districts, so that, none of these uses may be established without authority of an ordinance of the Mayor and Board of Aldermen, and such authority may be granted in industrial use districts only. Before any ordinance, authorizing any use, or authorizing construction, extension or alteration of buildings, for any use listed in this Section, may be passed, at least ten days' notice shall be given by the applicant interested in or applying for authority, of the intended application for the passage of such ordinance, by posting a conspicuous sign on the premises, and by a publication of at least four insertions in a daily newspaper published in the City of Frederick. The sign and publication shall specify the exact location and nature of such use, construction, extension or alteration, as the case may be, in such a way as to apprise property owners or occupants of the proposal.

Section 5. Business Use Districts. In a business use district, no use of land or building shall be excluded except—

1. Uses for which an ordinance is required before they are established in industrial use districts, as noted in Section 4

2. Blacksmith shop or horse-shoeing shop
3. Carpet cleaning establishment
4. Cleaning establishment where flammable or explosive liquids are used
5. Coal yard or lumber yard
6. Junk yard or shop for purchase, sale, handling, baling or storage of scrap paper, metals, bottles, rags, rubber or other junk
7. Manufacturing
8. Motion picture film exchange and wholesale film distribution
9. Refining or bulk storage of petroleum or its flammable derivatives, provided, however, that this does not refer to ordinary retail gasoline filling stations
10. Pickling
11. Steam laundry
12. Wholesale bakery.

Section 6. Residential Use Districts. In a residential use district, no use of land or building shall be excluded, except—

1. Uses excluded from business use districts
2. Bakery
3. Bowling alley
4. Club, the chief activity of which is a service customarily carried on as a business
5. Correctional or penal institution
6. Dance hall
7. Dyeing or cleaning establishment
8. Factory
9. Filling station for the sale of flammable liquids
10. A garage or garages for more than three motor vehicles and covering in the aggregate more than six hundred square feet of a lot
11. Hotel which has less than twenty sleeping rooms
12. Laundry
13. Livery stable
14. Milk bottling or distributing plant
15. Motor vehicle, wagon or bicycle repair shop
16. Office building
17. Outdoor advertising structure, except the ordinary sign advertising for rent, sale or lease property on which such sign is situated

18. Plumbing establishment
19. Pool or billiard room
20. Sale or boarding stable
21. Shop for the conduct of a trade or for the sale of trade appurtenances
22. Store
23. Tailoring establishment
24. Theater including those for moving pictures
25. Undertaking business or establishment
26. Wholesale warehouse or storage warehouse or building to be used for the storage of household effects or merchandise
27. Storing or altering of packing boxes on any lot or in any building
28. Store for the sale of paints, oils, grease, varnishes, shellac, alcohol, celluloid or wax, or articles manufactured from any of these materials
29. Store for the sale of flammable or explosive merchandise
30. Store for the sale of merchandise which is received, handled, stored or delivered in flammable containers
31. Store for the sale of perishable food products
32. Store, the conduct of which results in flammable trade waste
33. Store, the conduct of which results in putrefactive animal or vegetable trade waste
34. The following places of business where service is rendered: clothes pressing, beauty parlor, barber shop, photographic establishment, printing establishment, shoe-repair shop, shoe-shining, poultry-killing, cat or dog hospital, automobile or storage battery service station.

Nothing in the use provisions of this ordinance shall be deemed to exclude farming, gardening, nurseries, or greenhouses from the residential use districts and such uses shall be deemed to be residential uses.

Section 7. Accessory Uses. Uses of land or buildings which are customarily incident to uses not excluded from residential use districts shall not be excluded from residential use districts, but shall be permitted as accessory uses. The

term "accessory use" shall include the activities of those engaged in professions, in their homes, and customary home occupations, but it shall not include any of the uses excluded by the provisions of Section 6. An accessory use shall be limited to the lot upon which the use, to which it is or is intended to be accessory, is situated.

Section 8. Non-conforming Uses. A non-conforming use is a use that now exists and that does not comply with the regulations for the use district in which it is situated. A non-conforming use may not be extended, except as hereinafter provided, but the extension of a use to any portion of a building, which portion is now arranged, intended or designed for such non-conforming use, shall not be deemed to be an extension of a non-conforming use. A non-conforming use may not be changed unless it is changed to a use of the same classification or to a use of a higher classification. A non-conforming use, if changed to a use of a higher classification, may not thereafter be changed back to a non-conforming use of a lower classification. Nothing contained in this ordinance shall be construed to prevent the continuance of any use which now exists.

Section 9. Construction, Extension and Alteration of Buildings. All buildings are permitted and may be constructed, extended or altered in any use district, except that

- (a) no building shall be constructed;
- (b) no building shall be extended;
- (c) no building shall be altered

where such construction, extension or alteration, as the case may be, is arranged, intended or designed to be used for, or to change a use for, a use which is specifically excluded from the use district in which the building, is situated or proposed to be situated.

Section 10. Use District Special Exceptions. The Board of Zoning Appeals may, in its discretion, in a specific case, after public notice and hearing and subject to the limitations set forth in Section 27, Paragraph j, and subject to the height and area regulations hereinafter described, permit, where otherwise excluded—

- (a) an extension of a use or building into a use district

of a higher classification immediately adjacent thereto for a distance of not more than fifty feet within the boundary line of such district;

(b) an extension of a non-conforming use or building upon the lot now occupied by such use or building;

(c) for a period not exceeding two years, in undeveloped sections of the city, temporary structures and uses in contravention of the regulations prescribed for the use district in which such structures or uses are proposed;

(d) an apartment or tenanted garage, without repair facilities and without storage or sale of flammable liquids, in a residential use district;

(e) a space, to be used as a garage, without repair facilities and without storage or sale of flammable liquids, within a building used as a hotel or as an apartment house;

(f) but, nothing in this section (10) shall be construed to vest any authority in the Board of Zoning Appeals with respect to uses, construction, extensions or alterations for which an ordinance is required by the provisions of Section 4.

Section 11. Uses Limited as to Location. In addition to the regulations and restrictions set forth in the preceding paragraphs,

1. Bakeries,
2. Bowling alleys,
3. Filling stations for the sale of flammable liquids,
4. Garages or places for housing or storing more than three motor vehicles,
5. Laundries,
6. Motor vehicle repair shops,
7. Undertaking business or establishments

are further limited as to location, so that, approval of the Board of Zoning Appeals, in its discretion, in a specific case, after public notice and hearing, and subject to the limitations set forth in Section 27, paragraph j, shall be obtained before any of these may be established.

Section 12. Height Districts. For the purpose set forth in Section 1, and considering the design, size and/or location of—

(a) sewers;

(b) water mains and pipes for fire extinguishment, do-

- mestic consumption and manufacturing;
 - (c) fire houses and their equipment;
 - (d) police stations with the number of patrolmen and the extent of their posts;
 - (e) streets, alleys, bridges and paving;
 - (f) schools, parks, playgrounds and other public facilities and requirements;
- and considering, among other things,
- (g) traffic problems;
 - (h) transportation requirements and facilities;
 - (i) access of light and air to buildings;
 - (j) access for fire protection;
 - (k) hazards from fire and disease;
 - (l) the use and area districts and regulations established by this ordinance,

as affected by the height of buildings in each of the height districts hereinafter mentioned, the height of buildings is hereby regulated and restricted, and the City of Frederick is divided into two classes of height districts, namely:

- (1) Ninety-foot Height Districts;
- (2) Forty-five-foot Height Districts,

as shown on the district map which accompanies this ordinance and which is hereby declared to be part of this ordinance. The height districts designated on said map are hereby established. The height district map designations, lines, figures, letters and symbols shown on said map are hereby declared to be part thereof.

Section 13. Height District Regulations. No building shall be constructed or increased in height to a height in excess of the height limits hereinafter provided for the height district in which such building is located or proposed to be located.

(a) In a ninety-foot height district, no building shall be constructed or increased in height to a height in excess of ninety feet at the street or any lot line. Back of the street or lot lines, any building or portion thereof may be erected to a height in excess of ninety-feet, provided such building or portion thereof is set back from all street and lot lines one foot for each three feet of such additional height. Notwithstanding other regulations and restrictions in this section (13), no dwelling shall be constructed or increased in height to a height greater than forty-five feet in an industrial use district.

(b) In a forty-five-foot height district, no building shall be constructed or increased in height to a height in excess of forty-five feet.

Section 14. General Height District Exceptions. The height regulations of this ordinance shall not apply to the construction of the following:

(a) Belfries, chimneys, cupolas, domes, fire escapes, flag poles, flues, minarets, monuments, spires, stacks, steeples, ventilators, or outdoor radio towers, poles, antennae and wires;

(b) Water towers or tanks other than those located on the roof of a building;

(c) Bulk-heads, cooling towers, elevator enclosures, monitors, pent houses, sky lights, stage towers or water tanks, occupying not more than twenty-five per cent., in the aggregate, of the area of the roof of the building on which they are located;

(d) Towers, occupying not more than twenty-five per cent., in the aggregate, of the area of the building on which they are located and not more than fifty per cent., in the aggregate, of the length of the street frontage of the building.

Section 15. Area Districts. For the purpose set forth in Section 1, and considering the design, size and/or location of—

(a) sewers;

(b) water mains and pipes for fire extinguishment, domestic consumption and manufacturing;

(c) fire houses and their equipment;

(d) police stations with the number of patrolmen and the extent of their posts;

(e) streets, alleys, bridges and paving;

(f) schools, parks, playgrounds and other public facilities and requirements;

and considering, among other things,

(g) traffic problems;

(h) transportation requirements and facilities;

(i) access of light and air to buildings;

(j) access for fire and police protection;

(k) protection of occupants of buildings from noise, dust and gases caused by traffic;

(l) hazards from fire and disease;

(m) the use and height districts and regulations established by this ordinance, as affected by the percentage of lot occupied, the size and location of yards and other open spaces, and the density of population, in each of the area districts hereinafter mentioned, the percentage of lot that may be occupied, the size and location of yards and other open spaces and the density of population are hereby regulated and restricted, and the City of Frederick is divided into three classes of area districts, namely:

- (1) A Area Districts;
- (2) B Area Districts;
- (3) C Area Districts,

as shown on the district map which accompanies this ordinance and which is hereby declared to be part of this ordinance. The area districts designated on said map are hereby established. The district map designations, lines, figures, letters and symbols shown on said map are hereby declared to be part thereof.

Section 16. Area District Regulations. No building shall be constructed except in accordance with the area regulations hereinafter prescribed for the area district in which such building is located or is proposed to be located. No building shall be so extended as to reduce the open spaces prescribed for the area district in which such building is located or such extension is proposed to be located. No building shall be constructed, extended or altered, if such building as proposed to be constructed, extended or altered, is arranged, intended or designed to be occupied by more than the number of families permitted by the area regulations hereinafter prescribed for the area district in which such building, extension or alteration is located or is proposed to be located. No building shall be occupied by more than the number of families permitted by the area regulations hereinafter prescribed for the area district in which such building is located.

Section 17. A Area Districts. The following regulations and restrictions shall apply in A area districts:

- (a) A dwelling shall not occupy more than seventy-five per cent. of the area of an interior lot, nor more than eighty-five per cent. of the area of a corner lot.

(b) In the rear of every dwelling there shall be a rear yard not less than twenty-five feet deep.

(c) No dwelling shall hereafter be constructed, extended or altered to accommodate or make provision for more than sixty families on any acre of land, nor for more than a proportional number of families on a fractional part of any acre of land. The maximum number of families which may hereafter be housed on any parcel of land shall not exceed the integral number obtained by multiplying the acreage of such parcel, exclusive of the area within street and alley lines, by sixty.

Section 18. B Area Districts. The following regulations and restrictions shall apply in B area districts:

(a) A dwelling shall not occupy more than fifty per cent. of the area of an interior lot, nor more than sixty-five per cent. of the area of a corner lot.

(b) In the rear of every dwelling there shall be a rear yard not less than twenty-five feet deep.

(c) No dwelling shall hereafter be constructed, extended or altered to accommodate or make provision for more than sixty families on any acre of land, nor for more than a proportional number of families on a fractional part of any acre of land. The maximum number of families which may hereafter be housed on any parcel of land shall not exceed the integral number obtained by multiplying the acreage of such parcel, exclusive of the area within street and alley lines, by sixty.

(d) A side yard not less than three feet wide shall be required for every dwelling hereafter erected except that no such side yard shall be required on a corner lot. In this district, wherever a side yard is now provided, no extension or alteration of a dwelling shall be made so as to reduce such a yard to less than three feet in width.

Section 19. C Area Districts. The following regulations and restrictions shall apply in C area districts:

(a) No building shall occupy more than thirty per cent. of the area of an interior lot, nor more than forty per cent. of the area of a corner lot.

(b) In the rear of every building there shall be a rear yard not less than thirty feet deep.

(c) No building shall hereafter be constructed, extended or altered to accommodate or make provision for more than twelve families on any acre of land, nor for more than a proportional number of families on a fractional part of any acre of land. The maximum number of families which may hereafter be housed on any parcel of land shall not exceed the integral number obtained by multiplying the acreage of such parcel, exclusive of the area within street and alley lines, by twelve.

(d) At least one side yard shall be required for every dwelling hereafter erected. For a detached dwelling, or for any building other than a dwelling, two side yards shall be required, each of which shall be not less than ten feet wide. For a semi-detached dwelling, one side yard not less than fifteen feet wide shall be required.

Section 20. General Area Regulations and Exceptions. The following general area regulations and exceptions shall apply:

(a) The limits of building area in this ordinance shall apply at the mean curb level.

(b) In computing the depth of a rear yard abutting on an alley, the measurement may include one-half the width of such alley.

(c) In computing the width of a side yard abutting on an alley, the measurement may include one-half the width of such alley.

(d) A fire-proof, outside stairway, or an open or lattice enclosed iron fire escape may project not more than eight feet into a rear yard, and a solid floor balcony may project not more than six feet into a rear yard.

(e) Ordinary window-sills, chimneys, eaves and cornices may project into any yard, and a fence not over four feet high may project into or enclose any yard.

(f) Enclosed or unenclosed porches not more than one-story high may project not more than ten feet into a front yard.

(g) An unenclosed porch may project not more than six feet into a rear yard; steps for entrance to a building may project into any yard, and a chimney oriel or bay may project not more than three feet into any yard, provided, however, that such steps, chimney oriel or bay shall not project

into such side yard as is required for dwellings in a B area-district.

(h) Notwithstanding other provisions of this ordinance pertaining to the number of families per acre, a single family may occupy any lot, the separate identity of which was determined at the time of the passage of this ordinance.

(i) Notwithstanding other area provisions of this ordinance, a garage for not more than one motor vehicle and not more than 200 sq. ft. in area, may be constructed in the rear yard of any lot on which there is a building at the time of the passage of this ordinance.

(j) Garages and accessory buildings not over fifteen feet high may occupy ten per cent. of the lot area, in addition to the building area limitations, providing that not more than fifty per cent. of the required area of a rear yard is occupied by such garages or accessory buildings.

(k) No dwelling shall hereafter be erected on a lot abutting on a street, alley or way which is less than thirty feet in width, provided, however, that nothing in this ordinance shall prevent the erection of a dwelling on a lot abutting on a street, alley or way that was laid out or opened prior to the passage of this ordinance.

(l) Nothing in this ordinance shall be construed to interfere with or restrict the number of families occupying buildings at the time of the passage of this ordinance.

(m) Nothing in this ordinance shall be construed to interfere with or restrict the percentage of lot now occupied by buildings, nor to require an existing building to be reduced in size in order to provide larger yards.

Section 21. Special Area Regulations and Exceptions.

(a) In C area districts garages and accessory buildings hereafter erected shall be set back not less than ten feet from all street lines.

Section 22. Front Yards. For buildings hereafter constructed, extended or altered, front yards shall be provided as shown on the front yard map which accompanies this ordinance, and which is hereby declared to be part of this ordinance. The required front yards designated on said map are hereby established. The front yard map designations, lines, figures, letters and symbols shown on said map are

hereby declared to be part thereof. No building shall be constructed except in accordance with the front yards prescribed for the block in which such building is proposed to be situated. No building shall be so extended or altered as to reduce the front yard prescribed for the block in which such building is situated. Nothing in this ordinance shall be construed to interfere with or restrict the size of front yards for buildings erected prior to the passage of this ordinance. Wherever, in a block, a zero is shown on the map, it is intended that no front yard shall be required. Except in Industrial Use Districts, wherever in a block or on unsubdivided land there is no front yard designated, it is intended that the required front yards for the block or for the land that may be subdivided into building lots hereafter or for blocks bordering streets that may be laid out hereafter through unsubdivided land, shall be determined by application of the rule set forth in Section 23 of this ordinance.

Section 23. Wherever the required front yard is not shown by an exact number of feet on the front yard map, it shall be determined by the following table, which specifies the minimum depth of front yard required, based on both depth of lot and width of street on which the lot abuts:

Front Yards Required For Lots Varying From 90-150 Feet In Depth

Width of Street From																		
35-100 Ft.	90	95	100	105	110	115	120	125	130	135	140	145	150					
35	23	24	25	26	27	28	29	30	31	32	33	34	35					
40	22	23	24	25	26	27	28	29	30	31	32	33	34					
45	21	22	23	24	25	26	27	28	29	30	31	32	33					
50	20	21	22	23	24	25	26	27	28	29	30	31	32					
55	19	20	21	22	23	24	25	26	27	28	29	30	31					
60	18	19	20	21	22	23	24	25	26	27	28	29	30					
65	17	18	19	20	21	22	23	24	25	26	27	28	29					
70	16	17	18	19	20	21	22	23	24	25	26	27	28					
75	15	16	17	18	19	20	21	22	23	24	25	26	27					
80	14	15	16	17	18	19	20	21	22	23	24	25	26					
85	13	14	15	16	17	18	19	20	21	22	23	24	25					
90	12	13	14	15	16	17	18	19	20	21	22	23	24					
95	11	12	13	14	15	16	17	18	19	20	21	22	23					
100	10	11	12	13	14	15	16	17	18	19	20	21	22					

The above table specifies the required front yard on lots varying from 90 feet to 150 feet, and on streets varying from 35 feet to 100 feet. For lots less than 90 feet deep the same front yard shall be required as for lots 90 feet deep. For lots more than 150 feet deep the same front yard shall be required as for lots 150 feet deep. For streets less than 35 feet wide the same front yard shall be required as for streets 35 feet wide. For streets over 100 feet wide the same front yard shall be required as for streets 100 feet wide. It is hereby expressly set forth that front yards are not required for buildings in industrial use districts, except where designated on the front yard map.

Section 24. The Board of Zoning Appeals may, in its discretion, in a specific case, after public notice and hearing and subject to the limitations set forth in Section 27, paragraph j,

(a) determine, in instances where there are minor irregularities in depths of existing front yards in a particular block, that any one of the existing depths shall be the required minimum front yard depth for the entire frontage, or for any part thereof, and for the entire block or for either side thereof;

(b) determine the front yard requirement for any lot or block where the rules above set forth do not establish the depth of a front yard.

Section 25. Interpretation of Maps and Map Designations. The following rules of interpretation shall be applicable to the maps:

(a) A use district name, a height district number, or an area district letter, shown on the use, height and area district map, indicates that the regulations pertaining to the district designated by that name, number or letter extend throughout the whole area bounded by the district boundary lines within which such name, number or letter is shown.

(b) Where the precise location of a district boundary line is indicated by a designated number of feet, shown on the map, that distance shall control.

(c) Where the precise location of a boundary line is shown as within or binding along a street or alley, such boundary line shall be deemed to be the center of such street or alley.

(d) Where a boundary line is shown and its location is

not fixed by any of the above rules of this section, its precise location shall be determined by scaling from fixtures shown on the map.

(e) The depth of a front yard required for any building in a block shall be not less than the number of feet indicated as the front yard requirement for such block, as shown on the front yard map, said front yard depth to be measured from the front line of the lot to the front line of the building.

Section 26. Enforcement. The method for enforcing this ordinance, and the procedure to be followed in making application for permits shall be as follows:

(a) Before any land or building may be used, or before any building may be constructed, extended, altered, repaired, changed or converted, application for a permit shall be made to the City Engineer. The application shall be accompanied by plans and specifications of the proposed building. If the application, filed together with the plans and specifications, conforms in all respects with the requirements of this ordinance, the City Engineer shall, within reasonable time, issue the permit applied for. If the application and the accompanying papers do not comply in all respects with the regulations of this ordinance, it shall be disapproved by the City Engineer, and the applicant notified in writing. The City Engineer may, in his discretion, before disapproving any application, return such application to the applicant, who may amend the said application, plans or specifications in order to make the proposal comply with the regulations of this ordinance. In such event the City Engineer shall proceed to pass upon the application as if it were an original one. If an application is disapproved, the applicant shall be notified in writing, with reasons for the disapproval. If an application is approved, a written permit shall be issued. In passing upon applications for permits, approval or disapproval of the City Engineer shall, at all times, be in accordance with interpretations given this ordinance and the maps by the Board of Zoning Appeals, hereinafter established.

(b) An application for a permit shall show such information as may be necessary to determine if the application conforms with the regulations of this ordinance and shall be accompanied by a plat in duplicate, drawn to such scale as the Engineer may require, showing the actual dimensions of

the lot built upon or to be built upon, the size and situation of all existing buildings upon the lot, the size and situation of the building or buildings to be constructed, the size and situation of any proposed extension, the house number and names of all streets upon which the lot abuts, and such other information as may be necessary to provide for enforcement of this ordinance, or upon which to base an inspection prior to passing on the application.

(c) In case any building or structure is constructed, extended, altered, repaired, changed, converted or maintained, or any building, structure or land is used in violation of this ordinance, The Mayor and Aldermen, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful construction, extension, alteration, repair, change, conversion, maintenance or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any act, conduct, business or use in violation of this ordinance in or about such premises.

Section 27. Board of Zoning Appeals. Constitution of the Board of Zoning Appeals, procedure for taking appeal, and powers of the Board are as follows:

(a) The Board of Zoning Appeals is hereby established. It shall consist of five members, and they shall be appointed by the Mayor, subject to approval of the Board of Aldermen. The members of the Board of Zoning Appeals shall be appointed for a term of four years, but of the first appointed members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. One member shall be named by the Mayor as Chairman. Annually hereafter the Mayor shall appoint, subject to the approval of the Board of Aldermen, members for terms of four years, to succeed those whose terms have expired. A vacancy shall be filled for the unexpired term of any member whose term becomes vacant. The members of the Board of Zoning Appeals shall be removable for cause by the appointing authority upon written charges and after public hearings.

(b) The Board shall appoint such employees as may be authorized from time to time by the Board of Aldermen. The members of the Board of Zoning Appeals and employees shall

receive such compensation as may be fixed by the Board of Aldermen.

(c) The Board of Zoning Appeals, hereinafter referred to as "the board," shall adopt rules necessary for carrying out the provisions of this ordinance. Meetings of the board shall be held at the call of the Chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board, and shall be a public record.

(d) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the municipality affected by any decision of the City Engineer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the City Engineer and with the board a notice of appeal, specifying the grounds thereof. The City Engineer shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

(e) An appeal stays all proceedings in furtherance of the action appealed from, unless the City Engineer certifies to the Board of Zoning Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the City Engineer and on due cause shown.

(f) The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(g) The Board of Zoning Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.

2. To hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under this ordinance.

3. To authorize upon appeal in specific cases such variance from the terms of this ordinance as is necessary to avoid arbitrariness and so that the spirit of the ordinance shall be observed and substantial justice done.

(h) In exercising the above-mentioned powers the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the City Engineer.

(i) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of the City Engineer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

(j) Where the board is authorized to make special exceptions, it shall do so only where the proposed use of buildings or structures, changes of use of land or buildings, size of yards, size of buildings, or density of population, shall not create hazards from fire or disease, or shall not menace the public security, health or morals, and in determining whether, under any particular existing conditions, the proposed conditions would create hazards from fire or disease, or would menace the public security, health or morals, the board shall give consideration to items (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of section 2, items (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) of section 12, and items (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m) of section 15.

Section 28. Court Review. Court review is herein provided in accordance with Article 66 B of the Annotated Code of Maryland.

(a) Any person, or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer, or any officer, department board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after filing of the decision in the office of the board.

(b) Upon the presentation of such petition the court may allow an appeal to review such decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the appeal shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such appeal. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(e) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

Section 29. Restoration of Buildings. Nothing in this ordinance shall prevent the restoration of a building destroyed by fire, explosion, act of God, act of the public enemy or otherwise, or prevent the continuance of the use or part thereof as such use existed at the time of such destruction of such

building or part thereof or prevent a change of such existing use under regulations provided by this ordinance. Nothing in this ordinance shall prevent the restoration of any part of a building declared unsafe by the City Engineer or by a Board of Survey.

Section 30. Permits Good for Six Months. Whenever a permit is granted under the provision of this ordinance, it shall be exercised by the grantee therein named within six months from date of its issuance, and if not exercised by the grantee therein named within that time, the privilege and all rights granted shall become null and void and of no effect, and any permit heretofore granted in pursuance of any ordinance of The Mayor and Aldermen of Frederick shall be exercised within six months from the date of the approval of this ordinance, otherwise to become null and void and of no effect.

Section 31. Penalties for Violation. Any person who shall construct, extend, alter, repair, change, convert or use any building, or use any land, or change the use of any land or building in violation of this ordinance, or who shall neglect to obtain the permit required by this ordinance shall be guilty of a misdemeanor and upon conviction in any court of competent jurisdiction, shall be fined not less than twenty-five nor more than two hundred dollars; every such person shall be deemed guilty of a separate offense for every day such violation shall continue.

Section 32. Provision for Amendment. This ordinance, with its regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty per cent. or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred feet therefrom or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Board of Aldermen of the City of Frederick. No such amendment, supplement, change, modification, or repeal shall become

effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in the City of Frederick.

Section 33. Definitions. For the purpose of this ordinance, and unless the contrary clearly appears from the context, certain words are defined as follows:

a. All words used in the present tense shall include the future. All words used in the plural number shall include the singular number. All words in the singular number shall include the plural number. The word "lot" includes the word "plot." The word "building" includes the word "structure." The word "occupied" includes the words "arranged, intended or designed to be occupied." The word "used" includes the words "arranged, intended or designed to be used." The word "shall" is always mandatory and not directory.

b. Lot. A lot is a parcel of land now occupied by, or hereafter laid out for, one building and the accessory buildings or uses customarily or necessarily incident to it, including such open spaces as are required by this ordinance, and such open spaces as are arranged, intended and designed to be used in connection with such building.

c. Street. The term "street" shall apply to any public or private way thirty feet or over in width. The term street shall be taken to include the whole way over which the public has a right of easement, including the way for both vehicular and pedestrian traffic.

d. Alley. The term "alley" shall apply to any public or private way less than thirty feet in width.

e. Height of Building. The height of a building is the vertical distance measured in the case of flat roofs from the mean curb level to the level of the highest point of the roof beams adjacent to the street wall, and in the case of pitched roofs from the mean curb level to the mean height level of the roof. Where no roof beams exist or there are structures wholly or partly above the roof, the height shall be measured from the mean curb level to the level of the highest point of the building. Where the walls of a building do not adjoin a street then the height of a building shall be measured from

the average elevation of the ground adjoining the walls instead of from the curb.

f. Building. An edifice or any structure located on a lot.

g. Width of the Street. The mean of the distances between the sides thereof within a block.

h. Corner Lot. A lot of which at least two adjacent sides abut for their full length upon a street.

i. Interior Lot. A lot other than a corner lot.

j. Depth of Lot. The dimension measured from the front of the lot to the extreme rear line of the lot. In case of irregularly shaped lots the mean depth shall be taken.

k. Yard of Open Space. The clear, unoccupied space on the same lot with a building, and required by the provisions of this ordinance.

l. Front Yard. A clear, unoccupied space on the same lot with a building, extending across the entire width of the lot and situated between the front line of the building and the front line of the lot.

m. Rear Yard. A clear, unoccupied space on the same lot with a building, extending across the entire width of the lot and situated between the rear line of the building and the rear line of the lot.

n. Side Yard. A clear, unoccupied space on the same lot with a building and extending for the full length of the building between the building and a side lot line.

o. Dwelling. Any building used in any part for residence, including an apartment house, is a dwelling, provided, however, that the term "dwelling" shall not include a hotel.

p. Now. "Now" shall mean at the time of the passage of this ordinance.

q. Hereafter. "Hereafter" shall mean after the time of the passage of this ordinance.

Section 34. Saving Clause. In case it be judicially determined that any word, phrase, clause, item, sentence or section, or the application thereof to any person or circumstances is held invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 35. Upon the passage of this ordinance by the Board of Aldermen, as evidence of the authenticity of the

maps which are a part hereof, the said maps shall each be signed by the President of the Board of Aldermen and upon approval of the ordinance by the Mayor, each shall be signed by the Mayor of the City of Frederick.

Section 36. And be it further ordained that this ordinance shall take effect from the date of its approval.

Passed August 5th, 1929.

LLOYD C. CULLER,
President of Board of Aldermen.

Approved August 5th, 1929.

LLOYD C. CULLER,
Mayor.

ZONING ORDINANCE

of

FREDERICK
MARYLAND

Adopted August 5, 1929

